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OFFICE OF PETITIONS

In re Application of :
Schneider :
Application No. 10/674,615 :
Filed: September 30, 2003 :
Attorney Docket No. 7784-000553CPA :
FOR: POLYMER COMPOSITE STRUCTURE
REINFORCED WITH SHAPE MEMORY ALLOY
AND METHOD OF MANUFACTURING SAME

**DECISION DISMISSING
PETITION**

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed December 11, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any further reconsideration petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to non-final Office action, mailed November 30, 2004, which set an extendable period for reply of three (3) months. Having filed no reply, this application became abandoned on March 1, 2005. A Notice of Abandonment was mailed on June 29, 2005.

Petitioner states that the non-final Office action mailed on November 30, 2004 was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include :

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the November 30, 2004 non-final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's docket record for the November 30, 2004 non-final Office action was fruitless. However, petitioner has not stated that a search of the file jacket was conducted.

As stated in pertinent part in the previous decision on petition:

Petitioner has not proven non-receipt because (1) practitioner has not attested to the fact that a search of the file jacket indicates that the Office communication was not received....

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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By hand: U.S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
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By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.


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